

Derlyn D. Gross Pro Per

Name

911 Parr Blvd.Reno Nevada 89512-1000

Address

03-884

Prison Number

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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Derlyn D. Gross1. The State of Nevada Plaintiff,2. Brian Sandoval3. Washoe County4. Richard Gammick5. McHasssey Deputy D.A.6. Judge Fidel Salcedo7. Judge Jerome Polaha8. Michael Specchio9. Steve Gregory10. Jeremy Bosler11. Tobin Fuss12. City of Reno13. City of Reno Police Dept.14. Jerry Hoover Police Defendant(s).15. det. Soderblom16. John Doe thru 1017. Washoe Legal Servs.18. Dennis Balaam

CV-N-03-0157-DWH-RAM

CIVIL RIGHTS COMPLAINT
PURSUANT TO
42 U.S.C. § 1983- A JURY TRIAL DEMAND -
- injunctive relief -
- Declaratory relief -
- DAMAGES -

A. JURISDICTION

1) This complaint alleges that the civil rights of Plaintiff, Derlyn D. Gross,
(print Plaintiff's name)who presently resides at 911 Parr Blvd. Reno, Nevada 89512, were
(mailing address or place of confinement)

violated by the actions of the below named individuals which were directed against

Plaintiff at Reno Nevada Washoe County, Nevada on the following dates
(institution/city where violation occurred)3-15-02, 10-21-02, 3-15-02, 10-21-02, and 3-15-02, 10-21-02.
(Count I) (Count II) (Count III)

Make a copy of this page to provide the below
information if you are naming more than five (5) defendants

See Additional Pages (3)

2) Defendant The State of Nevada resides at State of Nevada,
(full name of first defendant) (address of first defendant)

and is employed as State of Nevada. This defendant is sued in his/her
(defendant's position and title, if any)

individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to the public retail stores in direct violations of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st and 14th amendments of the U.S. Constitution, resulting in false arrest, false imprisonment and illegal prosecutions by enforcement of unconstitutional laws.

3) Defendant Brian Sandoval, AG resides at State of Nevada,
(full name of first defendant) (address of first defendant)

and is employed as attorney general. This defendant is sued in his/her
(defendant's position and title, if any)

individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in direct violations of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st and 14th amendments to the U.S. Constitution, resulting in false arrest, false imprisonment and illegal prosecutions by enforcing a unconstitutional state statute

4) Defendant WASHOE COUNTY resides at Washoe County, Nevada,
(full name of first defendant) (address of first defendant)

and is employed as Washoe County. This defendant is sued in his/her
(defendant's position and title, if any)

individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in direct violations of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st and 14th amendments to the U.S. Constitution, resulting in false arrest, false imprisonment and illegal prosecutions by enforcing an unconstitutional state statute.

5) Defendant Richard Gammick resides at 75 Court St. Reno, NV,
(full name of first defendant) (address of first defendant)

and is employed as Washoe County prosecutor. This defendant is sued in his/her
(defendant's position and title, if any)

individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in direct violations of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st and 14th amendments to the U.S. Constitution, resulting in false arrest, false imprisonment and illegal prosecutions by enforcing an unconstitutional result - and cruel and unusual punishment which is prohibited by section 203 of the act.

Make a copy of this page to provide the below
information if you are naming more than five (5) defendants

- 2) Defendant McHaffey resides at 75 Court St Reno NV
(full name of first defendant) (address of first defendant)
and is employed as deputy district attorney. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: acted in concert with the other defendants as a part of an un-
lawful conspiracy to deprive equal civil rights under 42 U.S. Code 2000a
to enter open to public retail stores resulting in direct violations of
the 1st, 4th and 14th amendments to U.S. Constitution and injury to person
and property depriving those rights also by illegal prosecution, Nevada laws
- 3) Defendant Judge Fidel Salcedo resides at 1 Sierra Ct. Reno NV
(full name of first defendant) (address of first defendant)
and is employed as Judge. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: acted in concert with the other defendants as a part of an
unlawful conspiracy knowingly to deprive equal civil rights under 42 U.S.
Code 2000a to enter open to the public retail stores resulting in direct
violations of the 1st, 4th and 14th amendments to U.S. Constitution and injury to
person and property and the knowingly illegal prosecution, Nevada laws
- 4) Defendant Judge Jerome Polaha resides at 75 Court St Reno NV
(full name of first defendant) (address of first defendant)
and is employed as Judge. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: acted in concert with the other defendants as a part of an
unlawful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code
2000a to enter open to public retail stores resulting in direct violations of
1st, 4th and 14th amendments of U.S. Constitution; injury to person and property
and the knowingly illegal prosecution of Nevada laws
- 5) Defendant Mike Specchio resides at 1 Sierra St Reno NV
(full name of first defendant) (address of first defendant)
and is employed as Chief deputy Public Defender. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
under color of law: acted in concert with the other defendant as a part of an unlaw-
ful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code 2000a
to enter open to public retail stores resulting in direct violations of the
1st, 4th and 14th amendments to U.S. Constitution; and injury to persons and
property and the knowingly illegal prosecution of Nevada laws

Make a copy of this page to provide the below information if you are naming more than five (5) defendants

- 2) Defendant Steve Gregory resides at 1 Sierra St Reno NV
 (full name of first defendant) (address of first defendant)
 and is employed as Deputy Public Defender. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
 under color of law: acted in concert with the other defendants as a part of an unlawful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code 2000a to enter open to public retail stores, resulting in direct violations of 1st, 4th, 6th and 14th amendments to U.S. Constitution; injury to person and property and the knowingly illegal prosecution of Nevada laws as well
- 3) Defendant Jeremy Bosler resides at 1 Sierra St Reno NV
 (full name of first defendant) (address of first defendant)
 and is employed as Deputy Public Defender. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
 under color of law: acted in concert with other defendant as a part of an unlawful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code 2000a to enter open to public retail stores, resulting in direct violations of 1st, 4th, 6th and 14th amendments to U.S. Constitution; injury to person and property and the knowingly illegal prosecution of Nevada laws as well
- 4) Defendant Tobin Fuss resides at 1 Sierra St Reno, NV
 (full name of first defendant) (address of first defendant)
 and is employed as Deputy Public Defender. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
 under color of law: acted in concert with other defendants as a part of an unlawful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code 2000a to enter open to public retail stores resulting in direct violations of 1st, 4th, 6th and 14th amendments to U.S. Constitution; injury to person and property and the knowingly illegal prosecution of Nevada laws as well
- 5) Defendant City of Reno resides at City of Reno Washoe County
 (full name of first defendant) (address of first defendant)
 and is employed as City of Reno, Nevada. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting
 under color of law: it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in direct violation of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st and 14th amendments to the U.S. Constitution, resulting in false arrest, false imprisonment and illegal prosecutions by enforcing an unconstitutional state law and inflicting cruel and unusual punishment

Make a copy of this page to provide the below information if you are naming more than five (5) defendants

2) Defendant Reno Police Dept. resides at City of Reno Washoe Co.
(full name of first defendant) (address of first defendant)

and is employed as City of Reno NV. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is a policy and practice to arbitrarily and discriminatorily

charge U.S. citizens with burglary i.e. unlawful entry into open to public re-
tail stores in direct violation of 42 U.S. Code 2000a of the civil rights act of
1964 title II, the 1st, 4th and 14th amends. to U.S. Constitution resulting in false
arrest, false imprisonment and illegal prosecutions by enforcing an unconsti-
tutional state statute

3) Defendant Jerry Hoover resides at City of Reno NV
(full name of first defendant) (address of first defendant)

and is employed as Reno Chief of Police. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: it is the policy and practice to arbitrarily and discriminatorily charge

U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in
direct violations of the 42 U.S. Code 2000a of the civil rights act of 1964 title II,
the 1st, 4th and 14th amends. to the U.S. Constitution resulting in false arrest,
false imprisonment and illegal prosecutions by use of an unconstitutional law

4) Defendant Detective Soderblum resides at City of Reno, NV
(full name of first defendant) (address of first defendant)

and is employed as Reno Police Detective. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: acted in concert with the other defendants as part of an unlaw-

ful conspiracy to knowingly deprive equal civil rights under 42 U.S. Code
2000a to enter open to the public retail stores resulting in direct violations of
the 1st, 4th and 14th amends. of U.S. Constitution and injury to person and
property, depriving these rights also resulting in cruel and unusual punishment.

5) Defendant John Doe #1 thru 10 resides at City of Reno, NV
(full name of first defendant) (address of first defendant)

and is employed as Reno Police officers. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law: acted in concert with the other defendants as part of an unlawful
conspiracy to knowingly deprive equal civil rights under 42 U.S. Code 2000a to enter
open to public retail stores resulting in direct violations of the 1st, 4th and 14th
amends. of the U.S. Constitution and injury to person and property depriv-
ing those rights also, resulting in cruel and unusual punishment.

Defendant: Washoe Legal Services resides at 65 Tahoe St Reno NV

employed as Washoe County Legal Services. Sued in a official capacity under color of law; acted in concert with the other defendant. Runs interference when

6) Defendant Dennis Balaam resides at City of Reno, NV

(full name of first defendant)

(address of first defendant)

and is employed as Washoe County Sheriff. This defendant is sued in his/her
(defendant's position and title, if any)

☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was acting

under color of law; it is the policy and practice to arbitrarily and discriminatorily charge U.S. citizens with burglary i.e. unlawful entry into open to public retail stores in direct violation of 42 U.S. Code 2000a of the Civil Rights Act of 1964 title II, the 1st, 4th and 14th amends. U.S. constitution resulting in false arrest, false imprisonment and illegal prosecution by use of a unconstitutional state statute

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343(a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

42 US Code Section 1981; Section 1985(2)(3) & 1986, 42 US Code Sections 2000a, 2000a-1, 2000a-2(c), 2000a-3(b); (for person aggrieved)

B. NATURE OF THE CASE

1) Briefly state the background of your case.

This is a civil action brought against the State of Nevada, that illegally and wrongfully charged and arrested Plaintiff for 3 counts of burglary and 3 counts of robbery, willfully and unlawfully enter places open to the public with the intent to commit larceny. Plaintiff was illegally incarcerated and falsely imprisoned for over (7) seven months. The prosecutions are the product of arbitrary discriminatory enforcement of a burglary statute NRS 205.060 in direct violations of the Civil Rights Act of 1964 title II 42 U.S. Code 2000a et. seq., which prohibits such prosecutions for exercising equal civil rights, 1st, 4th, 14th amends. to the U.S. constitution. This Civil Rights action is also brought against the defendants for acting in concert with each other as part as an unlawful conspiracy to knowingly violate and deprive said statutory

C. CAUSE OF ACTION

and constitutional rights. The 3 counts of burglary and 3 counts of robbery was pursued in "bad faith" without hope of obtaining a valid conviction, case being dismissed with prejudice. Prosecution objective being harassment, badgering, intimidating plaintiffs to "just plead guilty" to charges Plaintiff never committed or could be found guilty of. The contours of the right is sufficiently clear that the defendants herein, being reasonable officials would understand that what he was doing violates statutory and constitutional rights, the very action in question has previously been held unlawful, but it is to say that in the light of preexisting law the unlawfulness is clearly apparent. Plaintiff seeking Declaratory Judgment to the effect that Nevada Revised Statute 205.060 governing the crime of burglary in this instant case, a confession of intent to commit larceny in *Adam vs State* 94503 (1978), was and is unconstitutional on its face. Injunctive relief is sought to permanently enjoin the local and state officials further enforcement of said unconstitutional burglary statute against U.S. citizens, all of which resulted in Plaintiff's false arrest, false imprisonment, causing Plaintiff cruel and unusual punishment. The plaintiff suffering constitutional violations when arrested under the Nevada State burglary statute for simply entering retail stores open to public, place of public accommodations, during normal business hours, within the scope 42 U.S. Code 2000a, 2000a-1, 2000a-2(c), the 1st, 4th, and 14th amendment to the U.S. constitution. See also Nevada Revised Statute 205.065 burglarious intent, the jury instructions.

COUNT I

The following civil right has been violated:

4th amendment rights:
illegal detainment at the Washoe County Jail for over
7 months, charges Plaintiff could never be found guilty
false arrest, false imprisonment acting under the City of Reno

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

- (1) On or around the 19th of March 2002 at 10:30 p.m. Plaintiff was stop and
detained by Reno Police officers, John Doe's thru 10 and investigated for
a robbery that occurred at Pantry Mini Mart on March 15, 2002.
Pictures was taken of the Plaintiff and phone calls were made to a
robbery, homicide detective Soderblum. The investigation lasted
longer than the 60 minutes allowed, Plaintiff eventually being
released around 12:00 p.m.
- (2) March 28, 2002 Plaintiff was arrested by Detective Soderblum at a
friend's house and taken to Reno Police Dept interrogation room
and questioned about 2 burglaries and 2 robberies occurring
on March 15, 2002 and March 23, 2002, complete with video and
listening devices. Plaintiff had been arrested around 1:00pm, then
once the investigation was over, Plaintiff was released into the
custody of Cleveland and Casselli Reno Police transportation
officers, about 3:30pm, never being charge, but under the
deguise of a warrant for a jaywalking ticket, Plaintiff was
escorted to Washoe County Detention Facility. On April 4, 2002
Plaintiff was arraigned, 2 counts of burglary and 2 counts
of robbery, crimes that was alleged to had been committed on
3-23-02 at Pantry Mini Mart and 3-28-02 at Uptown Market. There was never
any physical evidence obtained to show that there was ever a crime committed.

COUNT II

The following civil right has been violated: The Due Process of Law; and effective assistance of Counsel. Defendant punishing Plaintiff's actions without probable cause in concert, resulting from arbitrary and discriminatory enforcement of the State law

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

In order to sustain a conviction for burglary the State must show that the accused entered the store with the intent to commit grand or petit larceny NRS 205.060. There was no showing of an unlawful entry. NRS 205.065 provides for an inference of burglarious intent, if the State's evidence can establish that there was an unlawful breaking and entering or unlawful entry, which it could not establish or obtain a valid conviction. No property ever discovered to retain possession of for a robbery charge, only suspicious hearsay testimony. Plaintiff contacted Steve Gregory in order to take back plea agreement and requesting the right to a preliminary hearing. On April 5, 2002 Plaintiff received a visit from Steve Gregory stating "It's for you You can't take back your plea". Plaintiff appeared in 2nd Judicial District Court Judge Polaha Dept. 3 on April 18, 2002 and refused to enter the plea agreement, time waived by Deputy Public Defender Jeremy Bosler, now representing defendant, i.e. video discovery. May 2, 2002 case was remanded back to Justice Court for a preliminary hearing by Judge Polaha. Jeremy Bosler stated that the video was irrelevant.

Cont-COUNT II

The following civil right has been violated: The Due Process of law: defendants punished the Plaintiff for exercising his right to enter open to public retail stores normal business hours under U.S. constitution; the Civil right act of 1964, 42 US Code: 2000a Fourteenth amendment violation

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

On April 4, 2002 Plaintiff was arraigned in Reno Justice Court for 2 counts of burglary and 2 counts of robbery, willfully and unlawfully enter open to public stores.... Pantry Mini Mart, on the 23rd of March 2002 and Uptown Market, on the 28th of March 2002,with intent to commit larceny and did take property to wit: liquor in the presence of employee's and did use force or fear of future injury to retain possession of the property after it was unlawfully taken, as stated in the criminal complaint. Plaintiff was appointed the Public Defender as counsel to defend this matter. On April 4, 2002 Plaintiff received a visit from the appointed counsel Deputy Public Defender Steve Gregory, deceiving Plaintiff that he can be found guilty and threatening habitual criminal act, having no discovery or Police reports convinces Plaintiff to waive preliminary hearing and sign a plea agreement for 1yr to 10yrs prison, without explaining the valuable rights a preliminary hearing contains. Steve Gregory working as a early case resolution lawyer convinces Plaintiff to sign a plea agreement to crimes Plaintiff could never be found guilty of according to NRS 205.0600 and 200.300. Washoe Legal Service that addresses illegal incarceration complaints a Roger HARADA says "is the state can convince a jury that you had intent prior to entry you could be found guilty. When the state has been wrong Washoe legal service runs interference for the state claiming legal conduct for the state. Also, Mark Ashley is a agent, instead of giving sound legal advise

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On May 30, 2002, Preliminary hearing, in Reno Justice Court Dept. Judge Salcedo presiding, Deputy Public Defender Steve Gregory and John Malone standing in for Jeremy Bosler. The Public Defender's keep trying to get the Plaintiff to just plead guilty when the NRS states that you cannot be found guilty of burglary unless you entered unlawfully or that there was a trespassory entrance. Plaintiff files a motion to dismiss and reappoint counsel and a motion to dismiss the criminal complaint. All Plaintiff motions denied by Judge Salcedo. Time is waived because of congested court calendar. June 13, 2002 Preliminary hearing, Judge Salcedo presiding. Jeremy Bosler now advising Plaintiff to accept D.A. McHaffey offer of 1 yr to 4 yrs prison which Plaintiff refuses. No probable cause shown for charging burglary or robbery and because Plaintiff did not accept the plea, D.A. McHaffey amended the complaint to 3 counts burglary and 3 counts robbery. Jeremy Bosler still stating "If the State can convince a jury that you had intent to steal before entering stores open to the public you will be found guilty. Plaintiff had been investigated for the amended burglary and robbery committed on March 15, 2002 but was never charged, investigation last longer than 60 min. on March 19, 2002 and March 28, 2002. Plaintiff ask Judge Salcedo to dismiss the Public Defender from defending this matter which was denied, Plaintiff then was forced to represent himself, but during the canvass Plaintiff asked for effective assistance of counsel, Salcedo, then stop the canvass gave me back the Public Defender Jeremy Bosler. There was no test of witnesses identification, Plaintiff identity corroborated only by the Police and the 4 witnesses, All that was alledged in this preliminary hearing, was that a customer browsing around, suspicious testimony that something was taken or shop-lifted by the customer and that the customer escaped before being apprehended. Clearly no evidence of a unlawful entry to charge

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burglary and force or fear used as a means of escape does not constitute robbery. No property ever being discovered, or did this customer cause any injury to store employees. Judge Salcedo bound the Plaintiff over to the 2nd Judicial District Court Washoe County State of Nevada 3 counts of burglary and 2 counts of robbery to answer to these charges. On June 27, 2002 Plaintiff appears in 2nd Judicial District Court Dept. 2 Judge Polaha, for arraignment, with deputy Public Defender Jeremy Bosler being defense counsel. Jeremy Bosler deceiving and threatening habitual criminal act on record in open court continues to ignore Plaintiff's motion and pleading, filed with the Clerk of Washoe County, refuses to sign on to these so called "Fugitive motions," Nevada laws that should have the case dismissed. Jeremy Bosler continues to advise Plaintiff to "just plead guilty" or face the "Bitch". Judge Polaha states "You can be charged with burglary if you shoplifter has no money in his pocket, and shoplifter, with money in pocket. Take advantage of the negotiations, else you'll spend the rest of your lives trying to get back on appeal". I ask Judge Polaha to waive time for 2 weeks so Jeremy Bosler could make an initial interview with Plaintiff at the Jail, to discuss the matter for the first time so plaintiff could show factual laws of innocence, thus granted. Trial date wasn't set at that time. The State continually use a confession of intent in *Adam v State* 94 Nev 503 (1978) as a binding authority to charge citizens with burglary, for lawfully entering with intent even though *Adam v State* 94 Nev 503 (1978) formulation of criminal intent after one lawfully enters do not satisfy the Statute. *Childs v State* thoughts alone do not constitute a crime. The mere act of lawfully entering cannot be elevated to an unlawful entry or an overt act evidencing intent to commit burglary. The act or conduct in question consisted with a shoplifter and to elevate these crimes to the more serious charges is illegal.

COUNT III

The following civil right has been violated: Equal Protection: defendants acting under the State of Nevada, Washoe County, City of Reno conspiring to violate equal civil rights 42 U.S. Code Section 1985(3); Standards, malicious Prosecution, Manifest violation of the 13th amendments.

Supporting Facts: [Include all facts you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

On July 11, 2002 Plaintiff on the court calendar Dept. 3 Judge Polaha presiding. Plaintiff admits the ongoing conflict with Jeremy Bosler and the Public Defender Office still exists, motions the court to again remove their deputies from defending this matter, Jeremy Bosler still advising Plaintiff to "just plead guilty" or face habitual criminal act upon visiting Plaintiff at the Jail and refused to acknowledge Nevada laws as well as civil or constitutional laws that will have this case dismissed, Jeremy Bosler could no longer represent Plaintiff because the Public Defender has worked in concert as co-conspirators with the Prosecution of Washoe County for years to illegally charge and convict citizens with burglary, willfully and unlawfully enter "open to public" retail stores, a lawful entry or consensual entry without larcenous intent. Polaha refused to appoint effective counsel, plaintiff being forced to represent self. As the canvass proceeded, Polaha interrupts and appoints conflict attorney dismissing the Public Defender. Judge Polaha does not set a trial date at that time but waives time 2 wks for conflict attorney to appear Jack Alian.

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

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On July 25, 2002 Plaintiff on the court calendar to be appointed conflict attorney. Also Appearing Chief Deputy Micheal Specchio Public Defender stating: "there's no conflict, that Plaintiffs have a personality problem with all deputies of the firm and will not be happy with anyone of them". When the facts are clear that they cannot represent Plaintiffs and continues to be ineffective working in concert with the state to wrongfully charged and convict citizens for burglary, thus hiding the true facts of Nevada Revised Statutes. As a favor to Micheal Specchio, Judge Polaha renews the conflict and reappoints Public Defender when the conflict still exist, and violates ^{Nevada} Supreme Court Rules of Professional Conduct General Rule 160⁽²⁾ Imputed disqualification where lawyers from the same firm cannot continue to defend a matter where one of the same firm had previously been disqualified. Judge Polaha's conduct violates clearly established statutory and constitutional rights of which a reasonable person would have known. On Aug 6, 2002 Plaintiff on the court calendar Dept. 3 Judge Polaha to be appointed another Public Defender, Tobin Fuss. Chief Deputy Micheal Specchio also appearing. Plaintiff immediately reads General Rule 160⁽²⁾ Imputed disqualification explaining to Judge Polaha that the Public Defender cannot represent the Plaintiff any further, cause of Steve Gregory and Jeremy Bosler's misrepresentation the conflict will not go away. Judge Polaha again denies the motion, Plaintiff is then forced to represent self. Just getting into the canvass, Judge Polaha reappoints the Public Defender Tobin Fuss, who immediately violates Plaintiff speedy trial rights, without any discussion with Plaintiff, in open court on record, setting a trial date for November 18, 2002, which is allowed by Judge Polaha, who tells Plaintiff he will not be heard any more, with several Washoe County Sheriff's deputies, surrounding Plaintiff, within the court room. Plaintiff wrote a letter to Judge Polaha on or around

July 30, 2002 explaining the Federal Crime where two(2) or more conspiring un-
 color of law can be arrested and charged for illegal prosecution of citizens.
 Having no assistance from Tobin Tuss or the Public Defender's office
 Plaintiffs started filing Motion to Dismiss with the Clerk of Washoe
 County, Notice to Removal to U.S. District Court Northern District of
 Nevada, and Writ of Prohibition to the Supreme Court of Nevada,
 2ND Judicial District Court of Washoe County, Lack of jurisdiction
 to hear misdemeanor cases, all cases on file at the respective courts.
 Motion to Dismiss not being heard or considered; Notice to Removal
 denied, without even a hearing, was put on Appeal to the 9th Circuit
 Court of Appeals, who refused to let Plaintiff file *In Forma Pauperis*,
 thereby dismissing the case. The Supreme Court of Nevada could not
 rule, case has yet not been tried, in deposition". The State of
 Nevada Attorney General Brian Sandoval, Washoe County prosecutor
 Richard Gammick continues to let unprovoked police citizens be
 illegally prosecuted, thereby knowingly allowing this unconstitutional
 crime to wrongfully charge citizens of the State with burglary,
 for simply entering places open to the public. The Plaintiff is a
 victim of arbitrary and discriminatory enforcement of the Nevada Revised
 Statute 205.060 which defines the crime of burglary, and is unconstitutional
 on its face; the said statute which provides in relevant part: "a person who by
 day or night enters any shop....storewith the intent to commit larceny....
 is guilty of burglary" is overbroad and lacks an unlawful entry or trespassory
 entry element, thus imposes criminal sanctions what is otherwise non
 criminal activity, under State and Federal and Federal constitutions. The
 alleged acts or conduct in question consisted with a shoplifter, no force of fear
 or violence used in the taking. No evidence of any stolen property discovered,
 no necessary connection between the person's unlawful taking and use of
 force, person thief or attempted theft could not be elevated to robbery

TOBIN FUSSE deputy of the Public Defender continuously advises Plaintiff to "just plead guilty" to the District Attorney offer (12) twelve to (30) thirty months prison. Tobin Fusse states: "If the District Attorney can prove to a jury that Plaintiff's had intent to steal upon any entry, Plaintiff will be found guilty of burglary. On September 10, 2002 Tobin Fusse filed a writ of habeas corpus on Plaintiff's behalf, binding factual laws of Nevada concerning the burglary statute, even NRS 205.065 burglarious intent jury instructions for burglary, also laws clearly showing there was no robbery. On October 18, 2002 Plaintiff on the court calendar 2ND Judicial District Court Dept. 3 Judge Polaha, a writ hearing with District Attorney McHaffey's opposition. After Tobin Fusse presented meritorious case laws on what a burglary and robbery is, McHaffey's frivolous opposition won out, Judge Polaha denied the Writ, "conduct violates clearly established statutory or constitutional rights of which a reasonable person would have known." Without competent evidence and without statutory application, the defendant's named herein, are misusing the state burglary statute to punish Plaintiff for lawfully entering stores to public stores without proof of burglarious intent, under NRS 205.065, Immediately after the Writ hearing, Plaintiff approached by Tobin Fusse with a new District Attorney McHaffey offer, 3 petit larcenys, to be agreed upon in Justice Court. Case CR020810 never was remanded, Plaintiff returned back to Justice Court for the 2ND time, to be arraigned on brand new charges with a new Case Number RCR2002 5566 On October 21, 2002 Plaintiff plead to these charges 3 petit larcenys, after being illegally prosecuted for 3 count burglary and 2 counts of robbery for 7 months, Plaintiff do not trust the defendant's and Plaintiff could not receive the proper counsel, through fear of the habitual criminal act, and afraid of not receiving

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a fair trial, Judge Polaha conduct clearly violates established statutory and/or constitutional rights, instead of dismissing the charges and granting the writ, Polaha actually forced Plaintiff to accept a plea to brand new charges, a violation of due process rights. The State of Nevada, attorney general, Washoe County, City of Reno, have made criminal those activities 42 U.S. Code 2000a, 2000a-1 confer as rights, thus substituting lawful conduct for a crime, conditioning other rights and privileges upon sacrifice of conscience which restricts Plaintiff's said freedom by unlawful application, offensive to the 1st, 4th amendments of the U.S. Constitution, which prohibits the State, County, City and its agents from making or enforcing any law which abridges the privileges or immunities of citizens of the United States. The Reno Chief of Police, Jerry Hoover continue to let his officers charged citizens burglary and other crimes not pertaining to the conduct. The information in the criminal complaint is clearly falsified, Plaintiff never entered any place unlawfully, for an burglary indictment, no force of violence or fear of immediate future injury, caused to anyone by the Plaintiff to charge robbery. Plaintiff was the victim of slavery and involuntary servitude being imprisoned from March 28, 2002 until October 21, 2002, confined and deprived of his liberty and prosecuted without probable cause or due process and was held illegally at the Washoe County Jail by Sheriff Dennis Balaam, against his will by virtue of false criminal information accusing him of burglarizing "open to the public" retail establishments, within the scope of 42 U.S. Code 2000a, 2000a-1 2000a-2, the 1st, 4th, 5th, 6th, 14th amendments to the U.S. Constitution. In sum, the above defendants in joint participation did willfully, unlawfully and knowingly engaged in acts and practices prohibited by 42 U.S. Code 2000a-2(c), in that they did cause the false arrest, false imprisonment and illegal prosecution of the Plaintiff, for exercising his right to enter open to the public facilities.

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? ☒ Yes ☐ No. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below outline).

a) Defendants: Washoe County Public Defender's
 b) Name of court and docket number: Northern Nevada
 c) Disposition (for example, was the case dismissed, appealed or is it still pending?):
Plaintiff dismiss complaint December 2002
 d) Issues raised: effective assistance of counsel
conspiring with the prosecution
 e) Approximate date it was filed: Sept. 2002
 f) Approximate date of disposition: N/A

- 2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted**? ☐ Yes ☒ No. If your answer is "Yes", describe each lawsuit. (If you have had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline).

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

a) Defendants: _____
 b) Name of court and case number: _____
 c) The case was dismissed because it was found to be (check one): ☐ frivolous
☐ malicious or ☐ failed to state a claim upon which relief could be granted.
 d) Issues raised: _____
 e) Approximate date it was filed: _____
 f) Approximate date of disposition: N/A

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

a) Defendants: :(

b) Name of court and case number: _____

c) The case was dismissed because it was found to be (check one): frivolous
 malicious or failed to state a claim upon which relief could be granted.

d) Issues raised: _____

e) Approximate date it was filed: _____

f) Approximate date of disposition: NA

- not rule; Removal Northern District Court, Denied without
a hearing Sept 2002; Case ON Appeal to the Supreme Court
Nevada December 2002 8

E. Request for Relief

1) Declaratory Judgment: declaring as a matter of law that the Nevada Revised Statute 205.060(1) is unconstitutional on its face in violation 1st amendment free exercise clause, the 14th amendment due and equal protection clauses. 2) Declaratory Relief: that the defendant's actions violated the Plaintiff's 1st, 4th and 14th amendment rights to freedom of thought, due process and to be free from arbitrary and discriminatory enforcement of penalty statutes and rights under 42 U.S. Code 2000a to be free from unlawful entry allegations.

E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

Declaratory Relief Continued: that the 3 counts burglary, 3 counts robbery was pursued in "bad faith" without hope of obtaining a valid conviction, objective being to harass, badger and intimidate plaintiff's to "just plead guilty" that these charges was in direct violations of plaintiff's equal civil right causing irreparable injury to the Plaintiff as a U.S. citizen. 3) Compensatory damages: 1.5 million dollars for the illegal prosecution of Plaintiff, from the individuals herein named Judge,

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

(Name of person who prepared or helped prepare this complaint if not Plaintiff)

Wesley Brown
(Signature of Plaintiff)

03-11-03
(Date)

E. Request for Relief

(Additional space if needed; identify what is being continued)

cont. compensatory damages; District Attorney, Deputy, Public Defender, Reno Police Officers, Washoe County prosecution authorities relating to acts and practices prohibited by 42 U.S. Code 2000a-2(c) and preventive relief is available for "a person aggrieved." 4) Plaintiff seek the specific damages 1.5 million dollars: for mental anguish, deprivation of family, friends, work, play, loss of income 7 mos. unlawful unjustified incarceration, pain and suffering all requested from the City of Reno and Washoe County for immediate and future relief.